



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

**77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590**

EPA Region 5 Records Ctr.



294040

REPLY TO THE ATTENTION OF:

APR 08 2004

SR-6J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Re: GENERAL NOTICE OF LIABILITY
Allied Paper/Portage Creek/Kalamazoo River Superfund Site,
Kalamazoo and Allegan Counties, Michigan

Dear Sir/Madam:

The United States Environmental Protection Agency (U.S. EPA or the Agency) has documented the release or threatened release of hazardous substances, pollutants and contaminants at the Allied Paper/Portage Creek/Kalamazoo River Superfund Site (the Site). The Site, listed on the National Priorities List in 1990, is contaminated with polychlorinated biphenyls (PCBs). For several years, response work at the Site was directed by the Michigan Department of Environmental Quality (MDEQ) pursuant to various state enforcement authorities. Between 1995 and 2000, a group of potentially responsible parties (PRPs) conducted a Remedial Investigation (RI) and a Feasibility Study (FS) for that portion of the Site designated as Phase I. Phase I is a 35 mile stretch of the Kalamazoo river from Morrow Lake Dam to Lake Allegan Dam. The PRP-generated RI/FS was eventually disapproved by MDEQ. In February of 2002, at the request of MDEQ, U.S. EPA assumed the enforcement lead for certain areas of the Site, including the Kalamazoo River.

U.S. EPA has spent, and will continue to spend, public funds to investigate releases or threatened releases of hazardous substances at the Site pursuant to Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9601 *et seq.*, as amended by the Superfund Amendments and Reauthorization Act of 1986, Public Law 99-499 (CERCLA). Among other things, the Agency has: (1) conducted extensive sampling and analysis of PCBs located in the floodplain soils, exposed sediments, and in-stream sediments of the first two "reaches" of the Kalamazoo River, i.e., between Morrow Lake Dam and the Otsego City Dam; (2) convened numerous public meetings about response activities at the Site; (3)

reviewed and commented upon MDEQ-generated documents relating to response activities at the Site; (4) funded the ecological and human health risk assessments performed by MDEQ; and (5) funded MDEQ's contract with the United States Geological Government Survey for modeling work at the Site.

Additional Response Actions

Upcoming remedial response activities at the Site include the following:

- (1) supplement the data in the RI, and conduct additional analyses, to further determine the nature and extent of hazardous substances upstream of the Plainwell impoundment focusing on point sources and known contaminants, between Morrow Lake Dam and the Main Street Bridge in the City of Plainwell;
- (2) supplement existing data and conduct additional analyses, using similar sample density EPA used at Plainwell/Otsego City impoundments, to further determine the nature and extent of hazardous substances in the sediments and floodplain soils at the remaining downstream reaches, which include Otsego City Dam to Otsego Dam, Otsego Dam to Trowbridge Dam, Trowbridge Dam to Allegan City Dam, and Allegan City Dam to Lake Allegan;
- (3) conduct additional analyses to further identify and quantify, on a relative basis, all significant sources of PCBs to the Kalamazoo River system and biota at the Site;
- (4) perform a FS to determine and evaluate alternatives for remedial action at the remaining downstream reaches, which include Otsego City Dam to Otsego Dam, Otsego Dam to Trowbridge Dam, Trowbridge Dam to Allegan City Dam, and Allegan City Dam to Lake Allegan;
- (5) supplement existing data and conduct additional analyses to further determine the nature and extent of PCB contamination in Lake Allegan using similar sample design EPA used at Plainwell/Otsego City impoundments; and
- (6) perform a FS to determine and evaluate alternatives for remedial action at Lake Allegan.

Pursuant to its authorities under CERCLA and other laws, U.S. EPA may decide that other clean up activities are also necessary to protect public health, welfare and the environment.

GENERAL NOTICE

Pursuant to its authority under Section 104(a) of CERCLA, U.S. EPA is therefore issuing this General Notice of Liability letter to notify you of potential liability which you may have incurred

with respect to the Site. U.S. EPA is willing to discuss with you the entry of an appropriate administrative order on consent (AOC) under which you would agree to voluntarily conduct or finance additional RI/FS activities (including those specified above). To facilitate agreement on the terms of such an AOC, U.S. EPA invites you to participate in an Alternative Dispute Resolution (ADR) process, in which the services of a neutral facilitator would be used during AOC negotiations. Enclosed is a list of the recipients of this letter. Special notice procedures pursuant to Section 122(e) of CERCLA are not being used at this time.

PRP Response and U.S. EPA Contact Person

Please notify U.S. EPA in writing within ten (10) days of receipt of this letter of your willingness to participate in negotiations for an RI/FS AOC for this Site, and of your willingness to participate in a neutral-assisted ADR process to reach agreement on the terms of such an AOC. Your response should be sent to:

Shari Kolak
Remedial Project Manager
U.S. Environmental Protection Agency
77 West Jackson Boulevard (SR-6J)
Chicago, Illinois 60604

with a copy to:

U.S. EPA - Region 5
Marsha Adams, Enforcement Specialist
Emergency Enforcement & Support Section (SE-5J)
77 West Jackson Boulevard
Chicago, IL 60604-3590

If U.S. EPA does not receive a timely response, U.S. EPA will conclude that you do not wish to participate in negotiation of an AOC for RI/FS work, or in the ADR process for facilitated negotiation of an RI/FS AOC for this Site.

Further Information

If you need further information regarding this letter, you may contact Shari Kolak, Remedial Project Manager, at (312) 886-6151. Please direct legal questions to Jacqueline Hejmanowski, Assistant Regional Counsel, at (312) 353-4191. It should be noted that the factual and legal discussions in this letter are intended solely to provide notice and information, and such

discussions are not to be construed as a final Agency position on any matter set forth herein. All other questions should be directed to Marsha Adams, Enforcement Specialist at (312) 353-9484.

We appreciate your efforts to comment promptly.

Sincerely yours,



for Wendy L. Carney, Chief
Remedial Response Branch #1

Enclosure

cc: Mary Lynn Taylor
U.S. Dept. of Interior
Office of the Solicitor
Three Parkway Center
Suite 385
Pittsburgh, PA 15220

Marguerite Matera
NOAA Office of General Counsel
One Blackburn Dr.
Gloucester, MA 01930

Suzanne Sonneborn
Michigan Department of Attorney General
Environment, Natural Resources and Agriculture Division
P.O. Box 30217
Lansing, MI 48909

bcc: Marsha Adams, RESS
Shari Kolak, RPM
Eileen Furey, ORC
Jacqueline Hejmanowski, ORC
Files

ENCLOSURE A

**Allied Paper/Portage Creek/Kalamazoo River Superfund Site
Kalamazoo and Allegan Counties, Michigan**

LIST OF PRP RECIPIENTS OF GENERAL NOTICE LETTER

- (1) Bonnie Allyn Barnett (Counsel for Millennium Holdings)
Drinker Biddle & Reath
One Logan Square
18th & Cherry Streets
Philadelphia, PA. 19103
- (2) J. Michael Davis
Principal Counsel
Environmental Law Department
Georgia-Pacific Corporation
133 Peachtree St., NE (30303)
P.O. Box 105605
Atlanta, GA 30348-5605
- (3) Joseph P. Jackowski
Senior Legal Counsel
Weyerhaeuser Company
P.O. Box 9777
Federal Way, WA 98063-9777